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NOS. 80-1538 and 80-1934

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1980

JAMES PLYLER AND STATE OF TEXAS, et al.,
Appellants,

v.

J. and R. DOE, as guardian ad litem
for I. DOE, et al.,
Appellees.

IN RE: ALIEN CHILDREN EDUCATION
LITIGATION STATE OF TEXAS
AND TEXAS EDUCATION AGENCY,
Appellants,

v.

UNITED STATES OF AMERICA,
Intervenor-Appellee,
and
CERTAIN NAMED AND UNNAMED
UNDOCUMENTED ALIEN CHILDREN,
Appellees.

On Appeal From The United States
Court Of Appeals For The Fifth Circuit

BRIEF AMICUS CURIAE OF TEXAS IMPACT IN SUPPORT OF APPELLEES

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TABLE OF CONTENTS

	PAGE
TABLE OF AUTHORITIES.....	iii
INTEREST OF AMICUS CURIAE.....	2
SUMMARY OF ARGUMENT.....	4
ARGUMENT.....	9
I. ACCESS TO PRIMARY EDUCATION IS A FUNDAMENTAL RIGHT.....	9
II. SECTION 21.031 IS NOT NARROWLY TAILORED TO SERVE A COMPELLING STATE INTEREST, NOR IS IT SUPPORTED BY A RATIONAL BASIS.....	22
A. No Local School District Has Been Severely Hampered In Providing Education To All Students In The 1980-1981 School Year.....	25
B. Enrollment Of Undocumented Students Has Had de minimis Fiscal Effect.....	27
C. Denying Access To Education Punishes Innocent Children For A Status Over Which They Have No Control And Has No Discernible Impact On Illegal Migration.....	39
D. Educating Appellee Children Who Share Characteristics Similar If Not Identical To 'Legal' Alien And Citizen Children Will	

PAGE

Not Reduce Quality of Education Available To All Students..... 45

E. Educating Undocumented Alien Children Is As Critically Important To The Child And To Society As Educating All Children..... 49

CONCLUSION..... 56

TABLE OF AUTHORITIES

Cases	PAGE
Bridges v. Wixon, 326 U.S. 135 (1945)	44
Brown v. Board of Education, 347 U.S. 483 (1954)	21
Brownsville Independent School District v. Certain Names and Unnamed Undocumented Alien Children, No. B-80-234 (S.D. Tex. Jan. 14, 1981)	26, 27, 34
Certain Named and Unnamed Non Citizen Children and Their Parents v. State of Texas, 448 U.S. 1327 (1980)	25, 26
Doe v. Plyler, 458 F. Supp. 569 (E.D. Tex. 1978) aff'd 628 F.2d 448 (5th Cir. 1980)	passim
Goss v. Lopez, 419 U.S. 565 (1975)	20, 21
Griswold v. Connecticut, 381 U.S. 479 (1965)	10, 11
In re Alien Children Education Litigation, 501 F. Supp. 544 (S.D. Tex. 1980)	passim
Mathews v. Diaz, 426 U.S. 67 (1976)	9
Meyer v. Nebraska, 262 U.S. 390 (1923)	10

PAGE

Mitchell v. Davis, 205 S.W. 2d 812 (Tex. Civ. App.-- Dallas, 1947, writ ref'd)..... 18, 19

NAACP v. Alabama, 357 U.S. 449 (1958)..... 11

Pierce v. Society of Sisters, 268 U.S. 510 (1925)... 10, 17, 18, 20

Prince v. Massachusetts, 321 U.S. 158 (1944)..... 15, 16

Roe v. Wade, 410 U.S. 113 (1973)..... 11, 12, 21, 40, 41

St. Ann v. Palisi, 495 F.2d 423 (5th Cir. 1974)..... 45

San Antonio School District v. Rodriquez, 411 U.S. 1 (1973)..... 8, 48

Shapiro v. Thompson, 394 U.S. 618 (1969)..... 21

Sherbert v. Verner, 374 U.S. 398 (1963)..... 21

Snyder v. Massachusetts, 291 U.S. 97 (1934)..... 9

Tinker v. Des Moines Independent Community School District, 393 U. S. 503 (1969)..... 21

United States v. Texas, 506 F. Supp. 405 (E.D. Tex. 1981).... 44

PAGE

Weber v. Aetna Casualty and Surety Company, 406 U.S. 165 (1972)..... 45

West Virginia v. Barnette, 319 U.S. 624 (1943)..... 21

Wisconsin v. Yoder, 406 U.S. 205 (1972)..... 5, 15, 16, 17

Wong Wing v. United States, 163 U.S. 228 (1869)..... 9

Constitutions, Statutes, Rules

FED. R. EVID. 201 (b)(2)..... 24

MEXICO CONST. art. 3 (1917, amended 1946), art. 33..... 53, 54

TEX. CONST. art. VII §1 (1869)..... 13, 14

TEX. EDUC. CODE ANN. §21.031 (Vernon Supp. 1980)..... passim

TEX. FAM. CODE ANN. §12.04 (1),(2) (Vernon Supp. 1980)..... 43

Miscellaneous

Amended Charter of the Organization of American States (Protocol of Buenos Aires), T.I.A.S. No. 6847, O.A.S.T.S. No. 1-A, O.A.S. O.R., OEA/Ser. A/2, add. 2 (entered into force February 27, 1980)..... 53

PAGE

American Declaration of the Rights and Duties of Man, O.A.S.O.R., O.E.A. Ser. L/V/II, 23, Doc. 21, Rev. 2 (English, 1975)..... 53

Austin American Statesman, Sept. 18, 1981, at B8, col. 1..... 38

Austin American Statesman, July 24, 1980, at ___, col. ___..... 42

Bible: Exodus 23:9; Isaiah 61:1-2; Jeremiah 22:3; Leviticus 19:34; Luke 4:18-19; and Zechariah 7:8-10..... 2

21C. WRIGHT & K. GRAHAM, FEDERAL PRACTICE AND PROCEDURE: EVIDENCE §§5101-5111 (1977)..... 24

Declaration on the Rights of the Child, G.A. Res. 1386 (1959)..... 53

Distribution of Undocumented Pupils in Texas: A First Look, Intercultural Development Research Association (1981)..Appendix B, 28, 29, 30, 31, 33

Fort Worth Star Telegram, May 16, 1981, at 31, col. ___..... 23, 24

H.B. 467.....Appendix A, 34, 35, 36, 37

PAGE

International Covenant on Economic Social and Cultural Rights, G. A. Res 2200 A (XXI) (1966) entered into force March 23, 1976..... 53

Proceedings of International Literacy Day Conference, Wash. D.C., 1978..... 55

UNESCO Convention Against Discrimination in Education, U.N.T.S. Vol. 429, No. 6193, P. 93 (1960) (entered into force May 22, 1962)..... 53

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BRIEF AMICUS CURIAE OF TEXAS IMPACT, SUPPORTING APPELLEES

INTEREST OF AMICUS CURIAE

Amicus curiae, Texas IMPACT, is the state level organization of National IMPACT, a non-profit interreligious network sponsored by Protestant, Roman Catholic and Jewish bodies and composed of individual members from the religious community. Texas IMPACT works closely with the Texas Conference of Churches and other religious groups in Texas to provide a presence of religious social consciousness in state government.

Concern of the religious community for the important issue presented in this litigation stems from the Judeo-Christian scriptural record's recurring theme of insistence that the people of God have a special responsibility to the sojourners in their midst. See Exodus 23:9; Leviticus 19:34; Jeremiah 22:3; Zechariah 7:8-10; Isaiah 61:1-2; Luke 4:18-19.

In the fall of 1980, the Texas IMPACT Board of Directors, convinced that education and literacy are critical to personal growth, economic and social development and religious expression, established the education of undocumented children as its first priority in the 1981 Session of the Texas Legislature.

Since that time, Texas IMPACT has undertaken a number of projects to address this very important public policy question. The organization has closely monitored implementation of the statewide injunction entered in July of 1980. Texas IMPACT has also worked closely with legislators and other concerned groups and individuals seeking to repeal the challenged statute in the last legislative session and has sought to educate the religious community on this vital issue. This educational effort included publication of a 25 page informational

booklet, "Por los Ninos, Education for Undocumented Children", which was widely used in churches as a resource for study by both groups and individuals.

As amicus curiae, Texas IMPACT seeks to bring before this Court information of public record relating to the numbers and effect of the undocumented children enrolled in Texas schools in the 1980-1981 school year. Texas IMPACT also seeks to communicate to this Court the fruits of its extensive deliberations on the important public policy questions at issue in this case.

All parties to the case have consented to the filing of this Brief of amicus curiae.

SUMMARY OF ARGUMENT

Whether formulated as an important liberty interest protected by the due process clause, as a right contained in the penumbras to fundamental civil

liberties previously vindicated by this Court, or as a fundamental interest deserving of heightened scrutiny under equal protection analysis, access to primary education, the provision of which "ranks at the very apex of the function of the state" Wisconsin v. Yoder, 406 U.S. 205, 213 (1972), surely is a fundamental right deserving of this Court's continued solicitude.

An examination of the State's interests which have been advanced in support of the constitutionality of Section 21.031 of the Texas Education Code, which deprives an identifiable class of poor children residing in Texas access to public education, requires a ruling that the statute does not serve a "compelling state interest" nor does it even meet the less stringent "rational basis" test.

The irrationality of Section 21.031

is evidenced by information of public record documenting the numbers, distribution and effect of the undocumented students who enrolled in Texas schools in the fall of 1980 pursuant to the statewide injunction. These records demonstrate that no school district could show sufficient harm to secure a stay of the judgment from a district court, a recourse specifically delineated by Justice Powell in the order vacating the stay of judgment instituted by the court of appeals. Only one local school district even sought such relief.

Data maintained by the Texas Education Agency also reveals that less than 11,000 undocumented students enrolled in Texas schools in the 1980-81 school year, a figure constituting less than one-half of one percent of total student enrollment in Texas and comprising less than ten percent of the estimate of 120,000

undocumented school age children argued by Texas in lower courts. The State's own public records have documented that enrollment of undocumented children has had no fiscal effect on state or local governments. Texas fiscal resources, particularly those earmarked for education, have, in fact, enjoyed unprecedented growth, even since entry of the statewide injunction, so that today the State's Permanent School Fund is the largest education endowment in the world.

Denying access to education impermissibly punishes innocent children for a status over which they have no control and has no discernible effect on illegal migration. Providing education to undocumented children, who share characteristics similar if not identical to other alien and citizen students, will not reduce the quality of education available to all students, and is inconsistent with

this Court's ruling in San Antonio v. Rodriguez, 411 U.S. 1 (1973). In those urban school districts with declining enrollments, the presence of undocumented students, whose enrollment generates more state aid for the school districts, may actually enhance the ability of local districts to improve the quality of education to all students.

Although the undisputed evidence presented in this litigation confirms that the great majority of undocumented children are here to stay and will become permanent residents, providing children access to primary education should not be conditioned on future residence, future employment, or future participation in the political process. Universal literacy is an important international human rights goal, recognized in numerous international human rights instruments. Providing children the

opportunity to learn the basic literary skills necessary for survival in the modern world is of transcendent importance.

ARGUMENT

I. ACCESS TO PRIMARY EDUCATION IS A FUNDAMENTAL RIGHT.

It is undisputed that the children in this litigation are protected by the due process clause of the fourteenth amendment. Mathews v. Diaz, 426 U.S. 67 (1976); Wong Wing v. United States, 163 U.S. 228 (1896).

The due process clause protects those liberties that are "so rooted in the tradition and conscience of our people as to be ranked as fundamental." Snyder v. Massachusetts, 291 U.S. 97, 105 (1934). Among those liberties recognized by this Court as entitled to protection under the fourteenth amendment are rights "to acquire useful knowledge,

to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience." Meyer v. Nebraska, 262 U.S. 390 (1923) and "the liberty of parents...to direct the upbringing and education of children." Pierce v. Society of Sisters, 268 U.S. 510, 534 (1925).

In Griswold v. Connecticut, 381 U.S. 479 (1965), this Court, speaking through Justice Douglas, recognized a fundamental right to privacy. Although acknowledging that the right is not specifically mentioned in the Constitution, the Court reasoned that the "specific guarantees in the Bill of Rights have penumbras, formed by emanations from those guarantees that help give them life and substance." Id. at 484. Thus, just as the right of association, a right not expressly included in the Bill of Rights, is necessary in making the first amendment

guarantee meaningful, NAACP v. Alabama, 357 U.S. 449 (1958), the Griswold Court held that the right of privacy is contained in the penumbras of the first, third, fourth, and fifth amendments, and its existence is further recognized by the ninth amendment. 381 U.S. at 483-85.

As recognized by this Court in Griswold and Roe v. Wade, 410 U.S. 113 (1973), those fundamental personal rights not specifically mentioned in the Constitution but deserving of protection include rights necessary to the exercise of first amendment rights--right to association, right to utter or print, right to distribute, right to receive information, right to read, freedom of thought, right of belief, right to express one's attitudes or philosophies, Griswold, 381 U.S. at 483,--and fundamental rights included in the guarantee of personal

privacy particularly relating to rights inherent in family relationships (marriage, procreation, contraception, abortion, family relations, child rearing and education). See Roe v. Wade, 410 U.S. 113 (1973).

Whether formulated as an important liberty interest protected by the due process clause, as a right contained in the penumbras to fundamental civil liberties previously vindicated by this Court, or as a fundamental interest deserving of heightened scrutiny under equal protection analysis, access to primary education, which is universally recognized as essential to a child's acquisition of basic literacy skills, surely ranks among those fundamental rights deserving of this Court's continued solicitude.

There can be little question that literacy and mastery of basic educational skills are necessary in making explicit

constitutional guarantees meaningful to the individual. Literacy is essential to give "life and substance" to first amendment freedoms and vindication to fundamental rights inherent in establishing a home, directing the upbringing and education of children, exercising religious freedom, participating in democratic self government and earning a living in a modern industrial economy.

A compelling argument for recognition of a fundamental right to primary education is the status granted this right by the states.

In Texas, education is a constitutional right. The Texas Constitution states: "A general diffusion of knowledge being essential to the preservation of the liberties and rights of the people, it shall be the duty of the Legislature of the State to establish and make suitable

provision for the support and maintenance of an efficient system of public free schools." TEX. CONST. art. VII, §1 (1869).

As Justice Seals observed in In re Alien Education Litigation, 501 F.Supp. 544 (S.D. Tex. 1980):

> The Constitution of 1869...required for the first time a uniform system of public free schools for the gratuitous instruction of all inhabitants between the ages of six and eighteen with compulsory attendance and a highly centralized system of school administration. In 1884, with the enactment of the school law, the idea of universal public education became completely accepted in Texas.
>
> Current statutory provisions reflect the State's control of education. One need only cite the compulsory attendance law, to illustrate the State's involvement in education. The State's ability to compel attendance reflects the social recognition of the governmental interest in educating all persons within the jurisdiction.
>
> Other areas which may be occupied by state activity do not share

> with education the connection to the essence of government...

Id. at 563 (citations omitted).

The traditional police power retained and exercised by the state to promote the health, welfare, safety and common good is perhaps nowhere more evident than in state legislation to protect and safeguard children, and "[p]roviding public schools ranks at the very apex of the function of the state." Wisconsin v. Yoder, 406 U.S. 205, 213 (1972). As this Court stated in Prince v. Massachusetts, 321 U.S. 158 (1944):

> Acting to guard the general interest in youth's well-being, the state as parens patriae may restrict the parent's control by requiring school attendance, regulating or prohibiting the child's labor and in many other ways...The State's authority over children's activities is broader than over like actions of adults. This is peculiarly true of public activities and in matters of employment. A democratic society rests, for its continuance upon the healthy, well rounded growth of young

> people into full maturity as citizens with all that implies...

Id. at 166, 168 (emphasis added).

Even when this Court has invalidated a state's assertion of its power to compel compulsory school attendance because of conflicts with other fundamental liberties protected by the Constitution, the Court has closely scrutinized the extent to which invalidation of the state's school attendance requirements would affect the child's opportunity to acquire essential skills. In Wisconsin v. Yoder the Court ruled that Amish children could be exempted from compulsory high school attendance because the state regulation conflicted with the Amish right to free exercise of religion protected by the first amendment. The Court was assured, however, that children received training in essential skills: "Since the Amish children are permitted to acquire the

basic tools of literacy to survive in modern society by attending grades one through eight and since the deviation from the State's compulsory education law is relatively slight, I conclude that respondents' claim must prevail..." 406 U.S. at 238 (White, J., concurring).

In Pierce v. Society of Sisters, supra, the Court invalidated a state statute requiring compulsory education in public schools, holding that the statute unreasonably interfered with the liberty of parents and guardians to direct the upbringing and education of children under their control: "The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations." 268 U.S. at 535. Here again, however, the Court carefully observed that invalidation of the statute

would not affect state legislation requiring compulsory school attendance and private schools would be state accredited, thus maintaining basic educational standards insuring opportunity for acquisition of basic skills. Id. at 534.

Neither a parent's liberty interest in directing the upbringing and education of children nor the parent or child's first amendment right to religious worship will override the state's interest in exercising its inherent police power to protect and safeguard the child if the exercise of these liberties threaten the welfare of the child.

In Mitchell v. Davis, 205 S.W.2d 812 (Tex. Ct. Civ. App.--Dallas 1947, writ ref'd), the Texas Court of Civil Appeals, rejecting a parent's assertion of a right to withhold medical treatment from her child on religious grounds, stated as follows:

> Medicines, medical treatment and attention, are in a like category with food, clothing, lodging and education as necessaries from parent to child, for which the former is held legally responsible. 23 Tex. Jur. 719; and proof that the parent is failing to provide any of these legal necessities to minor constituents of the family would in our opinion, sustain a charge of parental neglect. "It is the right and duty of parents under the law of nature as well as the common law and the statutes of many states to protect their children, to care for them in sickness and in health, and to do whatever may be necessary for their care, maintenance, and preservation, including medical attendance, if necessary. An omission to do this is a public wrong which the State, under its police powers, may prevent."

Id. at 813-14 (emphasis added).

Clearly parents have a legal right and duty to nurture, care for, and educate their children. Parents of the children in the instant case will be prohibited from fulfilling these important legal and moral obligations if the challenged statute is held constitutional. It is of critical importance, not

only to the parents and children but also to the State of Texas, that the children receive access to primary education. As this Court stated in Pierce v. Society of Sisters, 268 U.S. 510, 519, "it vitally interests and concerns the state that children shall be furnished the means of education and not left to grow up in ignorance."

The states' legitimate interest in providing educational opportunities to its children has been of no little interest to this Court. This Court has consistently recognized the importance of education both to the individual and society. In holding that education is an important property and liberty interest protected by the fourteenth amendment, the Court has not hesitated to invalidate state actions which arbitrarily or unreasonably infringe on this protected interest. See, e.g., Goss v. Lopez,

419 U.S. 565 (1975); Tinker v. Des Moines Independent Community School District, 393 U.S. 503 (1969); Brown v. Board of Education, 347 U.S. 483 (1954); West Virginia v. Barnette, 319 U.S. 624 (1943).

The proper inquiry in the instant case is whether the challenged statute, which indisputably and absolutely deprives an identifiable class of poor children residing in Texas access to public education, is narrowly drawn to serve a "compelling state interest." Roe v. Wade, supra; Shapiro v. Thompson, 394 U.S. 618 (1969); Sherbert v. Verner, 374 U.S. 398 (1963).

An examination of the state interests involved in this litigation, discussed infra, requires a ruling that the statute does not serve a "compelling state interest" and, in fact, reveals a startling lack of any reasonable justification. The statute therefore must be

invalidated as not even meeting the less stringent "rational basis" test.

II. SECTION 21.031 IS NOT NARROWLY TAILORED TO SERVE A COMPELLING STATE INTEREST, NOR IS IT SUPPORTED BY A RATIONAL BASIS.

The State of Texas, while conceding the harsh results of the challenged statute, has consistently argued throughout the litigation that the primary rational basis for Section 21.031 was preservation of scarce resources and fiscal integrity.

While admitting that "no studies were conducted [prior to the amendment] to determine the number of undocumented children throughout the State or the fiscal impact of educating them", In re Alien Children, 501 F.Supp. at 574,[1/] the State has argued in the lower courts

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1/ None of the parties to this litigation nor the district courts uncovered a shred of legislative history for Section

that as many as 120,000 undocumented children are residing in Texas; that their enrollment would present substantial fiscal burdens on state and local governments; and that excluding the children from public schools was reasonable and justified to preserve scarce educational resources.

This Court should recognize the public records which have become available documenting the numbers, distribution and effect of the undocumented

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1/ (Cont.)
21.031. The author of the Senate bill introducing the amendment has stated that he cannot remember why he sponsored the legislation. Fort Worth Star-Telegram, May 16, 1981, at 31, col. _. Another state senator said it "was worded affirmatively so I doubt I would have noticed it kept people out of school." Id. It has been suggested that most legislators were unaware that children would be excluded from school. As one senator stated, "It was late in the session and there was great concern that work would not be completed on a school finance bill before the end of the session." Id.

students who enrolled in Texas schools during the 1980-81 school year pursuant to the statewide injunction. 2/

These records demonstrate that no local school district has been severely hampered in providing education to all students in the 1980-81 school year and that enrollment of undocumented students has had de minimis effect on fiscal resources.

Additional interests advanced by the State in support of the statute are that educating these children will be an inducement to illegal immigration by

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2/ Rule 201(b)(2) of the Federal Rules of Evidence authorizes judicial notice of "adjudicative facts...capable of accurate and ready determination by resort to sources whose accuracy cannot readily be questioned." All facts relating to the numbers and distribution of undocumented alien students enrolled in the 1980-81 school year are maintained by the State of Texas and noticeable under the rule. See 21C. WRIGHT & K. GRAHAM, FEDERAL PRACTICE AND PROCEDURE: EVIDENCE §§5101-5111 (1977).

attracting Mexican children to come to Texas to be educated; the inclusion of the children will dilute services to "legal" alien students and citizen students; and that educating undocumented alien children is not necessary or required because the children cannot be citizens or participate in the political process. Each of the State's arguments in support of the statute is without merit.

A. No Local School District Has Been Severely Hampered in Providing Education to all Students in the 1980-81 School Year.

On September 4, 1980, Justice Powell vacated the stay of judgment instituted by the court of appeals. Certain Named and Unnamed Non-Citizen Children and Their Parents v. State of Texas, 448 U.S. 1327 (1980). However, the order did provide a recourse for individual school districts:

> This order shall be without prejudice to the ability of an individual school district, or the State on its behalf to apply for a stay of the District Court's injunction. If the district can demonstrate that, because of the number of undocumented alien children within its jurisdiction or because of exceptionally limited resources, the operation of the injunction would severely hamper the provision of education to all its students during the coming year, the granting of a stay would be justified."

Id. at 1334.

Subsequently, only one local school district of the 1,080 school districts in Texas applied to a district court for a stay, and in that case the district court denied the relief requested by the local school district. The district court found that "the Brownsville I.S.D. will not suffer irreparable harm from the admission of these children. It must be kept in mind that the undocumented children are not the sole cause or even the major cause of the [district's] problem."

Brownsville Independent School District v. Certain Named and Unnamed Undocumented Alien Children. No. B-80-234, slip op. at 9 (S.D. Tex. Jan. 14, 1981).

The fact that no school district could demonstrate sufficient harm to stay the judgment -- and that only one school district even sought such relief -- is compelling evidence of the insignificant burden on local school districts caused by the enrollment of these children.

B. Enrollment of Undocumented Students has had de minimis Fiscal Effect.

The negligible effect of undocumented students on Texas school districts is also evident from the records of 1980-81 enrollment of undocumented students maintained by the State of Texas and Texas Education Agency (TEA).

These records reveal that after the children were allowed to enroll in Texas public schools in September, 1980, the

State, through its Attorney General Mark White, communicated to all school districts in the State of Texas asking each to enroll all children and complete a survey form on the numbers and distribution of undocumented alien children.[3/]

The survey data collected by TEA was analyzed by Inter Cultural Development Association (IDRA) which recently published its study, Distribution of Undocumented Pupils in Texas Public Schools: A First Look.[4/]

The State's survey of local school districts revealed that 10,927 undocu-

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3/ See letter of Mark White to Texas School Administrators and TEA Form used in Survey of Undocumented Students, Appendix B at B22-25.

4/ The study is attached as Appendix B. Copies of all completed survey forms are attached as exhibits to the deposition of Alton O. Bowen, Commissioner of Education, State of Texas, taken November 20, 1980. Amicus understands the deposition is on file in the district court in In re Alien Children Education Litigation.

mented alien students, representing less than one-half of one percent of the total Average Daily Attendance (ADA) in Texas, enrolled in Texas public schools in the fall of 1980. This number is but a fraction of the 120,000 figure contended by Texas in In re Alien Children.

Even more noteworthy perhaps is that only 332 of the 1,080 Texas school systems reported the presence of any undocumented students.[5/] Furthermore, of the 332 districts reporting undocumented students, 204 (61%) reported having 10 or fewer undocumented children enrolled and only 13 school districts reported counts in excess of 100 pupils. Not surprisingly the major urban/surburban school districts, which have the greatest public enrollment in the State also had the

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5/ Appendix B at B6, B26.

highest enrollment of undocumented students.

IDRA examined in more detail the characteristics of districts reporting relatively high counts of undocumented children (over 50).[6/] The analysis revealed that 17 of the 37 "high count" districts, with a combined undocumented student enrollment of 5,721, had experienced declining enrollments. Significantly, the decline in enrollment of these large districts, totalling 18,702 in the 79-80 school year and 58,005 over the past five years, was substantially greater than the number of undocumented students (5,721) enrolled in the same districts in the 1980-1981 school year.[7/]

Indeed, the data seems to indicate that the integrity of local school

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6/ Id. at B9, B28-29.

7/ Id. at B11, B34-37.

districts, which have been experiencing enrollment declines, was enhanced by the addition of undocumented students. The influx of undocumented children enabled some school districts to retain state aid, which in large measure is based on the district's ADA, and thereby stave off increased local contributions to support education programs.[8/]

This ironic effect of excluding undocumented children was discussed by the district court in Doe v. Plyler, 458 F.Supp. at 577:

> The connection between the "economy measure" of excluding undocumented children from the benefits of the Available School Fund and increasing educational quality for the remaining students as shown to be unrealiable, and often perverse in operation. Educational funds in Texas come from state, local and federal sources. A local district's allotment from state funds depends in part on its Average

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8/ Id. at B12-13, B28-29.

> Daily Attendance ("ADA"). Prior to the enactment of Section 21.031 in 1975, a district could include undocumented children in its ADA and receive state funds accordingly. Under Section 21.031, however, a district is required to exclude undocumented children from its ADA, decreasing the amount of state funds it receives. Meanwhile, the diminished enrollment, by reason of the factors described above, is unlikely to have resulted in any savings to the local district. The school district is then forced to choose between increasing its own contribution, so as to maintain the current level of expenditures, or cutting back on its programs. Although the State will have saved money, it will not necessarily have improved the quality of education.

If Section 21.031 were found constitutional by this Court and large urban districts with declining enrollments were forced to exclude these children, the result could well be reduction in the amount of state aid to these local districts, without any corresponding reduction in the amount of local monies needed to maintain their programs. The ironic result would be reduction of educational

resources available to educate the remaining legal alien and citizen students.

IDRA's analysis of the TEA survey data also revealed the existence of school systems that have experienced increases in enrollment over preceding years. In these districts it is possible that undocumented students do contribute to problems associated with growth. It is illogical, however, to blame the undocumented student population for enrollment increases. These districts have had a history of growth in enrollment and thus have (or should have) extensive experience in dealing with the issue. Moreover, in these districts undocumented student counts were significantly lower than the enrollment increases experienced in previous years.

One school district with a history of growth in enrollment was examined by

the district court in Brownsville I.S.D., and the court concluded:

> Brownsville I.S.D. has certainly shown that it faces serious problems in providing an educational opportunity for all children in the district, but it has not shown that it is exclusively the result of the admission of the undocumented alien children into the school system. The district underestimated the peak enrollment for the current year. Even excluding the addition of the undocumented alien children, the school district's projection was at least 1,000 children short of what the actual enrollment would be. Thus, the problem of overcrowding and the unexpected financial burden would have been with the district in any case....

Brownsville I.S.D., supra, slip op. at 8.

In hearings before committees of the 67th Session of the Texas Legislature which considered proposals to repeal the challenged provisions of the Texas Education Code, testimony on the numbers and distribution of undocumented children was introduced as was testimony from local

school officials on the negligible effect on local districts of the inclusion of the undocumented children.[9/]

As indicated in the bill analysis of the House Committee Report of House Bill No. 467,[10/] those testifying in favor of the bill included Robby Collins, speaking on behalf of Dallas Independent School District, and Ruby Clifton, speaking on behalf of Houston Independent School District. Although these two school districts, the two largest school districts in the state, had vigorously opposed admitting these children in district court hearings, their position on

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9/ The House Committee Report of House Bill 467, issued April 28, 1981, is reproduced in Appendix A. Although both house and senate committees and the full house of representatives of the State of Texas voted in support of the proposal, the bill did not reach the senate floor and was not enacted into law.

10/ Appendix A at A7.

the issue changed after the children enrolled in school in the fall of 1980. Each testified that the additional enrollment was much less than anticipated and that the undocumented students posed no significant burden on the districts.[11/]

Most significant was the fiscal note provided the House Committee on Public Education by the Legislative Budget Board. The Legislative Budget Board, through its director and on the basis of information supplied by the Texas Education Agency, responded to the House Committee's request for a statement on the fiscal implications of House Bill 467 as follows:

11/ Testimony on House Bill 467, 67th Legislative Session, before House Committee on Public Education, April 7, 1981.

> No fiscal implication or additional cost to the State or units of local government attributable to the bill, should it be enacted is anticipated.12/

Thus, once again, the State declares unequivocally that educating these children poses no fiscal burden on the State of Texas.

Lower courts have observed that Texas enjoys a healthy economy. Indeed, counsel for the State of Texas made this clear to the district court when she stated in closing argument in In re Alien Children,

> There is no place in this pre-trial order that the State has said the State of Texas doesn't have enough money. Not one place. Texas can come up with the money. If we want to get the legislature to fund certain projects we will go down and get them to fund it. The State never said it didn't have money in its budget.

501 F. Supp. at 579.

12/ Appendix A at A9.

Texas education resources, in fact, have enjoyed unprecedented growth, even since entry of the statewide injunction. Texas Land Commissioner Bob Armstrong announced September 17, 1981, that the Permanent School Fund had exceeded three billion dollars, up from one billion dollars in 1971, with the recent delivery of a 1.2 million dollar royalty check. Austin American-Statesman, September 18, 1981, at B8, col. 1. Due to rapid escalation in oil and gas prices and aggressive leasing policies, the Permanent School Fund is now the "largest education endowment in the world." Id.

Armstrong said that despite recent moderation of oil prices, "all we're seeing is escalation" in the amount of royalty payments, adding that the fund is collecting about 460 million dollars a year now and will soon increase to 500 million dollars a year. Id.

The foregoing unquestionably substantiates that educating these children in the 1980-81 school year has not imposed any discernible fiscal burden on the State of Texas. Clearly the primary purported basis of the State -- to preserve fiscal resources -- is without merit.

C. Denying Access to Education Punishes Innocent Children For a Status Over Which They Have no Control and Has no Discernible Effect on Illegal Migration.

Texas has apparently concluded that by depriving these children of an education, the children will either be motivated to return to Mexico or be deterred from coming in the first place.[13/] In

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13/ The State argues: "Texas should not be forced to open its schools to the indeterminate number of Mexican children who may cross the border seeking education and family unity." Brief for Texas at 31. (This citation is to the State's unprinted brief filed with the Court August 29, 1981.)

either event, Texas has determined that those who remain in Texas will suffer the most severe punishment the State can exact on children: they will be deprived of an education.

This purported "rational basis" for Section 21.031 - that providing education is an inducement to illegal immigration - rests on the most specious of reasoning. First, it rests on the State's totally unsupported speculation of future harm if all children are educated in Texas.[14/]

This Court should not countenance the State's request for speculative relief. As this Court has stated, "the law deals in reality, not obscurity - the known rather than the unknown...The law does not deal in speculation." Roe

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14/ As discussed, supra, the State cannot argue injury in the present; educating the children in 1980-81 presented no discernible effect on State or local resources.

v. Wade, 410 U.S. at 217-18 (Douglas, J., concurring), quoting Justice Clark, Religion, Morality, and Abortion: A Constitutional Appraisal, 2 Loyala U. (L.A.) L. Rev. 1, 9-10 (1969).

Second, such an argument assumes that a significant number of aliens enter Texas for the express purpose of getting an education in Texas schools, an assumption lacking any support in the facts. The undisputed primary reason undocumented aliens enter the U.S. is to seek employment, and the overwhelming percentage of those who come are single males who remain in Texas but a short time. That there is an undocumented population in Texas at all simply attests to the fact that undocumented aliens can easily find employment in this State.[15/] The par-

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15/ It should be noted that undocumented alien workers contribute their proportional share to taxes which support

ties' migration experts testifying in district court agreed that those families who enter with children constitute a very small percentage of the undocumented population and constitute a subgroup of undocumented aliens who are permanent settlers that remain in Texas. See In re Alien Children, 501 F. Supp. at 558-59.

Further evidence that tuition free education is not an inducement to immigration is that, as previously discussed, over 10,000 undocumented children in Texas were enrolled in Texas schools in the fall of 1980. If the State's argument had any basis in fact or reason one would have expected these

15/ (Cont.)
public education. Texas Comptroller Bob Bullock has stated "Illegal aliens have been paying sales tax, motor vehicle tax and gasoline tax just like Texas residents. Some may treat them as second class citizens, but they are first-class taxpayers." Austin-American Statesman July 24, 1980, at _____, col._____.

children to have sought an education elsewhere.16/

The State's argument presumes that Mexican children make the decision to enter or leave this country. This is clearly not the case. Children do not and cannot choose their residence. Under Texas law children are under the actual and legal control of their parents. TEX. FAM. CODE ANN. §12.041 (1),(2) (Vernon Supp. 1980). See also discussion, supra, at 13-20.

The actual purpose and effect of the statute then is to punish these children for a status over which they have no

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16/ Amicus note that if education were an inducement to illegal migration, knowledgeable Mexican parents would hardly choose Texas over other States of the Union to educate their children. Texas ranks forty-second of the fifty states in current per pupil expenditure. In re Alien Children, 501 F. Supp. at 580. In addition, Texas has been severely criticized for its inadequate education pro-

control. The statute "completely ignores the traditional American doctrine requiring personal guilt rather than guilt by association or imputation before a penalty or punishment is inflicted." Bridges v. Wixon, 326 U.S. 135, 163 (1945) (Murphy, J., concurring). Justice Murphy described the doctrine as follows:

> The doctrine of personal guilt is one of the most fundamental principles of our jurisprudence. It partakes of the very essence of the concept of freedom and due process of law. It prevents the persecution of the innocent for the beliefs and actions of others.

Id. (citations omitted).

16/ (Cont.)

grams for bi-lingual Hispanic children. See United States v. Texas, 506 F. Supp. 405 (E.D. Tex. 1981).

Lower courts ruling on this issue appropriately relied on the doctrine as reflected and reaffirmed in decisions of this Court refusing to penalize and stigmatize children who are not in a position to prevent the wrongful acts of their parents. See, e.g., Weber v. Aetna Casualty and Surety Company, 406 U.S. 165 (1972); St. Ann v. Palisi, 495 F.2d 423 (5th Cir. 1974).

D. Educating Appellee Children Who Share Characteristics Similar If Not Identical to 'Legal' Alien and Citizen Students Will Not Reduce the Quality of Education Available to All Students.

The State's argument that educating the children will dilute educational services available to 'legal' alien and citizen students, rests on the presumption that undocumented children require a disproportionate share of educational resources because of their characteristics.

The district court in Doe v. Plyler found that "[n]o convincing testimony was presented...that singled out undocumented children as particularly problematic. The characteristics of legally admitted, Mexican-born children, as a class, are very similar, if not identical, to those of undocumented Mexican-born children." 458 F. Supp. at 576. In fact, the district court stated that each of the plaintiff children had at least one United States citizen sibling who would be clearly eligible to attend public schools, suggesting that characteristics of undocumented children are very similar if not identical to an identifiable group of United States citizen children.[17/]

17/ If some children admitted to Texas schools in 1980 are "over age and over size" because they were not

Further, as Judge Seals observed in In re Alien Children, "[t]here is no data which show that the academic performance of students has improved since undocumented children were excluded." 501 F. Supp. at 574.

The State's "dilution" argument further rests on the discredited presumption that there is a demonstrable correlation between cost per pupil and the quality of education. This Court, at the urging of the State of Texas, specifically rejected the proposition that quality of education is

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17/ (Cont.)

allowed to attend schools in previous years, the State has no one but itself to blame. It is clearly untenable that the State be allowed to inflict severe injury on a particular group of disadvantaged children and then be heard to argue that remedying the problem, which it alone has caused, will be so difficult that the only solution is to inflict even more injury on more children.

affected by relative discrepancies in educational funding in San Antonio School District v. Rodriquez, supra, noting that "[t]he extent to which the quality of education varies with expenditure per pupil is debated inconclusively by the most thoughtful students of public education..." 411 U.S. at 1304 n. 101.

The State's argument is particularly irrational in light of the fact that for those urban districts with declining enrollments, those most affected by the admission of these children, the addition of undocumented students, whose enrollment assists local districts to generate more state aid, may actually result in enhancing the ability of the districts to improve the quality of education to all students. See Appendix B and discussion, supra, at 30-33.

E. Educating Undocumented Alien Children is as Critically Important to the Child and to Society as Educating all Children.

Texas cynically argues not only that education of these children is unnecessary because the children cannot be citizens or participate in the political process but also that educating them is a waste of its educational resources because an educated undocumented alien is more likely than an uneducated alien to be deported and leave the state.[18/] Does Texas suggest that it actually prefers that undocumented aliens who remain in Texas grow up ignorant, illiterate, locked into a life of virtual serfdom?

Not since slavery has this nation tolerated an educational policy that in-

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18/ See Brief for Texas at 28 (This citation is to the State's unprinted brief filed with the Court August 29, 1981).

tentionally denies a vulnerable group of children the chance to learn. Not since slavery has this nation condoned education policies that condition access to primary education on future employment, future residence or future participation in the political process. To the contrary, this nation has embraced a policy that <u>every</u> child deserves a chance. Thus, children are not discarded because they are slow learners, physically handicapped, hyperactive, mentally retarded, terminally ill, non-English speaking, poor, learning disabled, or juvenile delinquents. Educators are expected to meet the challenges presented by their diverse charges not only because it is essential to the growth and well being of the individual child but also because the future health and vitality of society depend on it.

While it is clear that children have a right to education regardless of their future residence, it is also clear from the undisputed evidence presented at both district court hearings that the majority of these children are here to stay and may very well adjust their status to permanent resident and U.S. citizen. The district court in Doe v. Plyler observed, "[W]itnesses from both sides testified that the illegal alien of today may well be the legal alien of tomorrow." 458 F. Supp. at 477. This uncontested fact was reiterated in In re Alien Children: "One fact remains free from serious dispute: the great majority of the undocumented children who have been or would be excluded from the public schools pursuant to the State statute are or will become permanent residents of this country. " 501 F. Supp. at 597.

By excluding these children from public schools, Texas is creating enormous social problems. As Bishop John Edward McCarthy testified in In re Alien Children:

> We are keeping certain people poor, and what we are manufacturing now is a monumental social cost to our society ten and twenty years from now...We are manufacturing ignorance; to be ignorant in society is to be non-productive; to be non-productive means for many instances to be forced into a state of crime. ..[W]hether it be right now in the form of modest increases in tuition in public school operating cost, or ...in terms of social cost...fifteen years from now, we will pay this bill....

Id. at 597.

The devastating effects of illiteracy--on society and on the individual--are recognized not only in the United States but also in the international community. Indeed, today the importance of providing children the opportunity to learn basic literary skills is con-

sidered so fundamental that primary education is identified as an important human right in virtually every international human rights instrument.[19/]

Consistent with the international goal of universal literacy, the Constitution of Mexico guarantees compulsory, free elementary education to all human beings. MEXICO CONST. art. 3 (1917, amended 1946). This guarantee is not

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19/ See, e.g., Article 47, Amended Charter of the Organization of American States (Protocol of Burenos Aires), T.I.A.S. No. 6847, O.A.S.T.S. No. 1-A, O.A.S.O.R., OEA/Ser. A/2, add.2 (entered into force February 27, 1970); Article 26, Universal Declaration of Human Rights, G.A. Res. 217A U.N. Doc. A/810 (1948); Principle 7, Declaration on the Rights of the Child, G.A. Res. 1386 (1959); Article XII, American Declaration of the Rights and Duties of Man, O.A.S.O.R., O.E.A. Ser. L/V/II,23, Doc 21, Rev.2 (English, 1975); Articles 13, 14, The International Covenant on Economic Social and Cultural Rights, G.A. Res. 2200A (XXI)(1966) entered into force March 23, 1976; UNESCO Convention against Discrimination in Education, U.N.T.S. vol. 429, No. 6193, p. 93 (1960) (entered into force May 22, 1962).

conditioned on immigration status nor is it restricted to Mexican citizens or nationals. The guarantee extends to all persons, including foreigners, in the territory of Mexico. Id. art. 33.20/

To deprive children of education is to make them captives of poverty and hopelessness. Literacy, the ability to

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20/ That Mexico places a very high priority on education was confirmed by the State's international law expert Covey Oliver, who agreed that Mexico spends the highest percentage of its gross national product on education of any country in the Western Hemisphere. In re Alien Children, Record of Proceedings, vol. XXI at 3199. Oliver, who described section 21.031 as "detestable" Id. at 3144, also recognized education and literacy as significant human rights and fundamental to economic and social development. After cataloguing international efforts to combat illiteracy, "not only by UNESCO, but by USAID, the World Bank the InterAmerican Foundation, the Organization of American States itself and various sectarian and lay private groups" Id. at 3197, Oliver observed "The fight for literacy is fundamental to economic as well as social development as seen in all development doctrines that I know anything about." Id.

communicate, to understand and be understood is the most fundamental of human skills without which neither modern technology nor modern nations could exist. As the Commissioner of Education for the United States Dr. Ernest G. Boyer stated in his opening remarks to the 1978 International Literacy Day Conference:

> (L)iteracy-acquiring written language skills-is a basic human right. It acknowledges that the capacity to send and receive messages sets humanity apart from all other forms of life, and that through language we are bound together in the profound interdependence we call society.
>
> All we know, all we fear, and all we hope is created and conveyed through symbols, and a man or woman who does not master the written word is isolated from the past, ignorant of the future, trapped in a tiny world of narrow possibilities, and tragically cut off from the benefits of life.

Proceedings of the International Literacy Day Conference at 19. (Plaintiff-Appellee Exhibit No. 301 at 19, In re Alien Children.)

CONCLUSION

For all the foregoing reasons, the judgment of the court of appeals should be affirmed.

Respectfully Submitted,

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APPENDIX A

H.B. No. 467-110
By Luna, et al.

A BILL TO BE ENTITLED

AN ACT

RELATING TO STUDENTS ELIGIBLE FOR

ADMISSION TO PUBLIC SCHOOLS

APPENDIX A

H.B. No. 467-110
By Luna, et al.

A BILL TO BE ENTITLED

AN ACT

RELATING TO STUDENTS ELIGIBLE FOR

ADMISSION TO PUBLIC SCHOOLS

HOUSE

COMMITTEE REPORT

1ST PRINTING

By Luna, et al. H.B. No. 467-110

A BILL TO BE ENTITLED

AN ACT

relating to students eligible for admission to public schools.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsections (a), (b), and (c), Section 21.031, Texas Education Code, as amended, are amended to read as follows:

(a) All children who are [~~citizens of the United States or legally admitted aliens and who are~~] over the age of five years and under the age of 21 years on the first day of September of any scholastic year shall be entitled to the benefits of the Available School Fund for that year.

(b) Every child in this state who is [~~a citizen of the United States or a legally admitted alien and who is~~] over the age of five years and not over the age of 21 years on the first day of September of the year in which admission is sought shall be permitted to attend the public free schools of the district in which he resides or in which his parent, guardian, or the person having lawful control of him resides at the time he applies for admission.

(c) The board of trustees of any public free school district of this state shall admit into the public free schools of the district free of tuition all persons who are [~~either citizens of the United States or legally admitted aliens and who are~~] over five and not over 21 years of age at the beginning of the scholastic year if such person or his parent, guardian or person having lawful

control resides within the school district.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE REPORT

The Honorable Bill Clayton 04/28/81
(date)
Speaker of the House of Representatives

Sir:

We, your COMMITTEE ON PUBLIC EDUCATION, to whom was referred H.B. 467-110, have had the same under consideration and beg to report back with the recommendation that it

(X) do pass, without amendment.
(-) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested.
(X) yes ( ) no

An author's fiscal statement was requested. ( ) yes (X) no

An actuarial analysis was requested.
( ) yes (X) no

The Committee recommends that this measure be placed on the (~~Local~~) or (~~Consent~~) Calendar.

This measure
( ) proposes new law.
(X) amends existing law.

House Sponsor of Senate Measure _____.

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Atkinson, Ch.	X			
Blanton, V. C.	X			
Haley, C. B. O.		X		
Barton	X			
Bryant	X			
Evans				X
Fox		X		
Glossbrenner	X			
Hall, L.	X			
Hanna				X
Peveto	X			

Total

7 aye
2 nay
0 present, not voting
2 absent

Hamp Atkinson
CHAIRMAN

Rynolds
COMMITTEE COORDINATOR

BILL ANALYSIS

Background Information

Section 21.031, Texas Education Code, presently prohibits persons between the ages of five and 21 who are not citizens of the United States or legally admitted aliens from attending the public schools of Texas free of charge.

Purpose

This bill removes the provision in the Texas Education Code that a person must be a U.S. citizen or a legally admitted alien to be admitted to the public schools free of charge.

Section by Section Analysis

S1. Amends Section 21.031(a), (b), (c), TEC, removing the provision that persons between the ages of five and 21 must be U.S. citizens or legally admitted aliens in order to be eligible to attend the public schools of Texas free of charge.

S2. Emergency clause.

Rulemaking Authority

It is the opinion of the committee that this does not delegate rulemaking authority to a state agency, office, department, or institution. As stated in the attached fiscal note, no fiscal implication or additional cost is anticipated.

Summary of Committee Action

Public notice was posted in accordance with the Rules of Procedure of the House of Representatives, and a public hearing was held on April 7, 1981.

The following people testified in favor of the bill:

Mr. Albert Cortez, Director, School Finance Program, I.D.R.A., San Antonio, on his own behalf;

Mr. Thomas V. Murto, III, an attorney from Garland, Texas, on his own behalf;

Mr. Robby Collins from Dallas, on behalf of the Dallas I.S.D.;

Ms. Ruby Clifton, a consultant from Houston I.S.D., on behalf of the school district;

Ms. Linda B. Team, Executive Director, Texas Impact, and Associate Director, Texas Conference of Churches, on behalf of the organizations;

and Mr. Jim Montgomery, Legislative Assistant, Christian Life Commission, on behalf of the Commission.

The following people did not testify, but wished to demonstrate their support of H.B. 467:

Mr. John Donaldson, Texas State

Teachers Association, on behalf of the Association;

Mr. Richard Daly, Executive Director, Texas Catholic Conference, on his own behalf and that of the Conference;

and Ms. Celeste Guerrero, Education Consultant, Catholic Diocese of Dallas, on behalf of the Office of Education, Diocese of Dallas.

There was no opposition to the bill. It was referred to subcommittee, to be named by the Chair.

The subcommittee was made up of the following members:

Blanton, Chairman
Peveto
Glossbrenner

The subcommittee met on April 23, 1981, in a formal meeting and passed H.B. 467 favorably without amendments by the vote of 3:0:0:0.

The full committee considered H.B. 467 in a public hearing, and it was passed favorably without amendments, by the vote of 7-2-0-2.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE

March 20, 1981

Honorable Hamp Atkinson, Chairman
Committee on Public Education
House of Representatives
Austin, Texas

In Re: House Bill No. 467
By: Luna

Sir:

In response to your request pursuant to House Rules, Section 3.119, this office finds the fiscal implications of House Bill No. 467 (relating to students eligible for admission to public schools) to be as follows:

> No fiscal implication or additional cost to the State or units of local government attributable to the bill, should it be enacted, is anticipated.

Thomas M. Keel
Director

Source: Texas Education Agency; LBB
Staff: TK, HES, PA

APPENDIX B

THE DISTRIBUTION OF UNDOCUMENTED PUPILS IN TEXAS PUBLIC SCHOOLS: A FIRST LOOK

THE DISTRIBUTION OF UNDOCUMENTED PUPILS IN TEXAS PUBLIC SCHOOLS: A FIRST LOOK

Intercultural Development
Research Association

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THE DISTRIBUTION OF UNDOCUMENTED PUPILS IN TEXAS PUBLIC SCHOOLS: A FIRST ANALYSIS[1]

By

Albert Cortez

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Intercultural Development
Research Association

[1]The authors of this study have granted permission to reproduce it in this Brief.

The following sections of the original publication have been omitted from this reproduction: Foreward; Acknowledgements; Appendix B: Alphabetical Listing of School Districts Reporting Undocumented Student Enrollment (computer listing); Appendix C: Rank Order Listing by Number of Undocumented Students (computer listing); Appendix D: Rank Order Listing by Percent of Undocumented Pupils (computer listing); Appendix E: Rank Order Listing of Number of Undocumented Students by County District Number (computer listing); Appendix F: Geographic Dispersion of Undocumented Pupils in Texas by County (map).

TABLE OF CONTENTS

Background B1

Some Caveats B3

Undocumented Student Enrollment . . . B5

Concentration Characteristics B7

A Closer Examination of
High Count Systems B9

Districts with
Increasing Enrollments B14

Some Updated Statistics B16

Some General Observations B20

Form Used in Survey of Undocumented
Students, Texas Education Agency. B22

Tables B26

LIST OF TABLES

Table 1. Distribution of Undocumented Students by Counts Within School Systems . . . B26

Table 2. Statewide Distribution of Undocumented Pupils by Percentage of Undocumented Pupils to District's ADA B27

Table 3. School Districts with 50 or more Undocumented Pupils B28

Table 4. School Districts with 50 or more Undocumented Pupils and with Declining ADA B30

Table 5. School Districts with 50 or more Undocumented Pupils with Low to Moderate Increases in ADA . . . B32

Table 6. School Districts Reporting 50 or more Undocumented Pupils; Five Year Attendance Histories B34

Table 7. Changes in Undocumented Student Totals for Selected School Systems, October 1980 to February 1981 . . . . . B38

THE DISTRIBUTION OF UNDOCUMENTED PUPILS IN TEXAS PUBLIC SCHOOLS A FIRST ANALYSIS

Background

On September 18, 1980 Judge Woodrow Seals of the Federal District Court for the Southern District of Texas issued a ruling in the case entitled "In Re: Alien Children Education Litigation." In that ruling, the court found unconstitutional the Texas statute denying tuition free enrollment to undocumented children. Judge Seals, as well as other federal courts, consequently ordered that these students be allowed to register and attend all public schools throughout the state. Following that order, the Texas Education Agency (TEA) conducted a survey in which school districts were asked to indicate the number of undocumented children enrolled in their public schools (see page B22).

Throughout the litigation IDRA had been asked to provide technical assistance to the plaintiff's attorneys. Of prime interest to the legal advocates was research on the prospective number of undocumented children and the possible impact which their enrollment would have on Texas school systems. Due to the organization's interest in the number and distribution patterns of the undocumented student population enrolled in Texas Schools, IDRA subsequently acquired the data which had been compiled by TEA. This data was merged with official TEA figures on district's refined average daily attendance (ADA) for the 1979-80 school year in order to assess the proportion of a district's ADA which was composed of undocumented students. The resulting data base was in turn converted to computer processable formats and subjected to a variety of analyses.

Guiding the analysis were the following research questions.

(1) What were the total number of undocumented students which enrolled in Texas school systems following the September court order?

(2) What were the total number of undocumented students within individual school districts?

(3) How many school districts reported enrollments of undocumented children?

(4) What types of school districts reported undocumented students, i.e., size (ADA); location within the state?

(5) What proportion of a district's ADA did the undocumented enrollment represent?

The results of these analyses are presented in subsequent sections of this report.

Some Caveats

Although TEA's request for data can be considered "official" in the sense that school districts were required to submit the information on undocumented

student enrollment, the true accuracy of the counts submitted has been questioned. Some argue that the counts are underestimated in certain districts due to the fact that some school officials may empathize with the undocumented child, or do not bother to stringently pursue the identification of all such children residing in the district. Others, however, point out that the complexities of immigration law, coupled with most school officials' lack of expertise in the area, probably contributed to misclassification of students as undocumented and subsequent inflated school district counts.

Given that the counts submitted to TEA were unverified and because districts lacked specific procedures to insure that the students identified in their report were, in fact, undocumented, the data must be approached with caution, and subsequent generalization tempered by this

knowledge.

Undocumented Student Enrollment

Of critical interest to both proponents as well as opponents of the enrollment of undocumented children in Texas schools is the number of such children attending public schools within individual districts. Prior to their enrollment and throughout the legal battles, speculation abounded on this issue. TEA, for example, subcontracted a study conducted by a Dallas research firm which concluded that there were over 120,000 undocumented children residing in Texas. In contrast, IDRA proposed that although it was difficult to ascertain exact counts, the numbers more closely approximated 20,000-30,000 children. Due to the clandestine existence of undocumented families, however, little concrete data actually existed at that time. Clear factual distribution patterns of undocu-

mented pupils have now become apparent following the enrollment of these students.

Most noteworthy among these early statistics is that only 332 of the 1,080 Texas school systems reported the presence of any undocumented students (see Table 1).

Of the 332 districts, 204 (61 percent) reported having ten or fewer undocumented children enrolled. In contrast, only thirteen school districts reported counts in excess of 100 pupils. Not surprisingly, the major urban/suburban districts, which have the greatest pupil enrollments in the state, also have the greatest undocumented student enrollments. In fact, inspection of a rank order listing by number of undocumented student counts reveals that six major districts had a total of 5,405 undocumented pupils, a figure equal to nearly 50 percent of

the statewide total.

Concentration Characteristics

The IDRA analysis also examined the proportion which undocumented pupils constitute of a district's existing enrollment and, more specifically, the percentage that such pupils represent of a district's ADA. To arrive at these figures, IDRA staff acquired district refined ADA data for the 1979-80 (the latest available) school year and calculated the percentages. The resulting information yielded revealing distributional patterns concerning concentration levels of undocumented pupils within Texas schools. The most striking of these statistics indicate that undocumented students represented less than one percent of a district's ADA in 240 (72 percent) of the 332 districts reporting (see Table 2). In 52 of the remaining 92 districts, undocumented students con-

stituted between one percent and three percent of a district's ADA. At the opposite end of the scale, these students represented more than five percent of a district's ADA in only twelve (3.3 percent) of the 332 districts reporting undocumented enrollment.

The relatively low proportions which these students represent of a district's total attendance is perhaps most apparent in the listing which rank orders districts according to the percentage of undocumented pupils within the school systems. Inspection of the figures reveals that relatively high counts of undocumented students are generally found in relatively high enrollment districts, with the proportional relationships reflected in the school districts' low percentages. On the other hand, close inspection of districts with unusually high percentages of undocumented pupils

reveals that, for the most part, they tend to be low enrollment districts in which small numerical increases in enrollment constitute substantial proportional changes.

A Closer Examination of "High Count" School Systems

Due to the concern which opponents of the mandated enrollment of undocumented children expressed regarding the impact of high counts of undocumented children. IDRA researchers proceeded to examine in more detail the characteristics of districts reporting relatively high counts.

For our purposes, high count school districts were defined as school systems whose reported undocumented student enrollment equaled or exceeded 50. As noted earlier, high count school systems were found to include primarily large urban/suburban school districts, and

selected south Texas districts which were located relatively close to the Mexican border.

Inspection of the data revealed that only 37 school districts had reported counts equal or greater than 50 (see Table 3).

As one means of assessing the impact of the influx of undocumented students on these systems, the researchers chose to examine their enrollment histories. This decision was based on the notion that the increased enrollment created by the undocumented student population was comparable in many respects to other fluctuations in attendance levels.

Inspection of the resulting data set exposed the fact that 17 of the 37 districts analyzed had experienced significant declines in enrollment during the five-year period preceding the 1980-81 school year. A review of Table 4 reveals

that Houston and Dallas experienced student decline in excess of 11,000 pupils, in their ADA. Ft. Worth dropped 8,900 pupils, Spring Branch declined by over 5,600, San Antonio lost more than 3,800 pupils and Corpus Christi declined by 2,900 students. Further tabulations reflected that for these 17 districts, the undocumented student enrollment was not even matching declines experienced by districts during the 1978-79 to 1979-80 period (the year preceding the undocumented students' enrollment) let alone the generally larger enrollment decreases during the preceding five year period. Tabulation of the 17 school district total reveals that, as a group, these school systems had a total decline in ADA of 58,005 pupils over the preceding five year period. During the 1979-80 school year these districts lost a total of 18,702 in pupil ADA. On the other hand,

the number of undocumented pupils in this same group totaled 5,721, a figure equal to 30.5 percent of the 18,702 pupil decline that these districts had experienced in the year prior to the enrollment of undocumented pupils.

Numerous important conclusions emerge from this subgroup analysis. First, in those districts which were experiencing enrollment declines, the undocumented students cushioned, although did not necessarily reverse the trend toward enrollment declines. With respect to state financial aid, the influx of undocumented children enabled some school systems to retain state funds that would have been lost because most state aid to school districts is based on a combination of factors involving district property wealth and ADA. In addition to preserving state aid, these students may also have prevented some increases in

local property taxes. Research done in the area of declining enrollment suggests that a school system's operating costs do not decrease in direct proportion to enrollment declines. Thus, in many of these systems, declining ADA and the corresponding decline in state aid would have shifted some of the burden of operating costs over to the local level. These communities would then have faced the option of either cutting back their programs to reflect the cuts in state aid resulting from enrollment decline, or assuming the residual costs. In general where undocumented enrollment replenished diminishing ADA, it can be said that the undocumented enrollment contributed to the district's ability to acquire additional state revenue and stave off local tax increases. The per pupil state revenue associated with the enrollment of undocumented children was in turn affec-

ted by the property wealth of the district, with state aid levels decreasing in proportion to local districts' wealth. This little discussed effect of the enrollment of undocumented students may explain the lack of opposition to or ambiguous posture regarding the issue by some school systems.

Districts with Increasing Enrollment

A further analysis of the subgroup of school systems with 50 or more undocumented children revealed the existence of a second set of school systems that have experienced low to moderate increases in enrollment over the preceding five year period.

Analysis of the data reflects that 20 of the 37 school district subgroup fell into this category (see Table 5). In these school systems, it would be accurate to state that the impact of an influx of undocumented children varies

distinctly from declining enrollment districts. It may be said, for example, that the undocumented students contribute, in these instances, to problems associated with growth in ADA (i.e., the need for more personnel, classroom space, supply needs, etc.). It is illogical, however, to assign all of the blame on the undocumented population for these districts' enrollment increases. Arguing from a different perspective one could contend that these same school systems have had a history of growth in enrollment and thus have (or should have) extensive experience in dealing with the issue. Moreover, if one examines the historical growth trends in these school systems it can be noted that the undocumented student counts were significantly lower than the ADA increase they had experienced in previous years (see Table 6).

Some Updated Statistics

Due to extensive interest in the numbers of undocumented students which might have enrolled in Texas schools after the October TEA survey was submitted, and the fact that legislation introduced by State Rep. Albert Luna required such data, Rep. Luna initiated a follow-up survey of all school systems which had originally reported undocumented student enrollments to TEA. Recognizing the significance of such information, IDRA requested and received the data which was originally collected by Rep. Luna's staff and subjected it to a variety of analyses.

An important issue regarding this data involves the fact that it includes responses from only 47 of the 332 school systems which had originally reported counts to TEA. The sample itself is composed of districts who voluntarily

responded to the request for information, and thus should not be assumed to constitute a representative random sample. Although not meeting required sampling criteria, the cross-section of school systems does provide some useful information concerning the growth in undocumented enrollment counts in those districts and may be indicative of a pattern common among other systems.

The most striking finding gleaned from the analysis of the data is that, of the 2,745 additional undocumented pupils reported by the 47 respondents, 2,464 (89.8 percent) were concentrated in 5 school districts, with the remaining 281 pupils distributed throughout the remaining 42 systems (see Table 7). A review of this subset further reveals that, although substantial, these counts resulted in relatively small changes in the percentages which the undocumented

enrollment constituted of a district's ADA, averaging about a .5 percent increase in all but Brownsville ISD. Not surprisingly, the relative concentration of these students parallels the distributional patterns reflected in the original survey data collected by TEA. Further inspection of the data reflects that, in the majority of the 47 districts which volunteered updated counts, the number of undocumented pupils remained at relatively similar levels. The data reflects, for example that 35, or 74 percent of the total 47 districts had experienced increased counts of 10 or fewer pupils. Of the total group, 13 respondents reported no change in the undocumented pupil counts, whereas a total of 13 school systems actually reported a decline in their undocumented student population. All of the aforementioned findings suggest that any districts not heavily

impacted in the initial enrollment period may anticipate a continuation of this trend in the future.

One serious question raised by the reported growth in undocumented student counts, however, is whether those school districts which experienced increased undocumented student enrollment between October and February can anticipate similar increases in the future. Unfortunately, a conclusive answer cannot be presented at this time. Yet it may be reasonable to assume that the increase reported between the initial survey and the February follow-up is more indicative of the cautious reaction of the undocumented population to the schools forced open door policy, rather than an influx of new undocumented families into Texas. A clearer indicator will be available once second and third year data on these students becomes available. In the

interim, however, it may help to consider that most studies done on the undocumented have indicated that: (1) they usually do not migrate as families, and (2) they come to this country seeking employment and not for the purpose of seeking better educational conditions for their offspring.

Some General Observations

Analyses of the aforementioned data leads the author to the following conclusions.

- The actual counts of undocumented students which enrolled in Texas public school fell far short of many original projections.
- With the exception of major urban and a few high enrollment large city school systems, undocumented students represented insignificant numerical increases in most district's ADA.

. For the most part, the percentage of undocumented pupils in proportion to a district's ADA was generally insignificant, falling below 5 percent in 97 percent of all districts reporting undocumented student counts.

Following the mandated enrollment of undocumented children, some school districts modified their position and withdrew their opposition to such enrollment. A few, however, maintain that the enrollment of these undocumented children detracts from the quality of educational programs available to citizen children residing in their districts. Although this may be the case in some very limited instances for the great majority of school systems in the state, these positions are not supported by the data.

THE ATTORNEY GENERAL OF TEXAS

Supreme Court Building
P. O. Box 12548
Austin, TX 78711
512/475-2501

September 5, 1980

To The Administrator Addressed:

On Thursday, September 4, 1980, Justice Lewis Powell of the United States Supreme Court entered an order vacating the stay of the United States Court of Appeals for the 5th Circuit of an injunction issued by District Judge Woodrow Seals ordering the State of Texas to provide tuition free education to illegal alien children within the State.

The effect of Justice Powell's order is to reinstate the District Court's injunction and require the immediate admission of these children to the public schools of Texas regardless of their immigration status. This order has no affect on any other admission requirements, such as the bona fide residency requirement.

Justice Powell stated that individual school districts which are harmed disproportionately as a result of the

influx of illegal alien children will be entitled to petition him for a stay on a case by case basis. You will soon be receiving instructions from the Texas Education Agency regarding the collection of information which will be helpful in establishing adverse impact on your district. In the meantime, while you must admit the illegal alien children, you should attempt to identify them and keep records of the number admitted.

Sincerely,

Mark White
Attorney General

B24

TEXAS EDUCATION AGENCY

Division of State Funding

District Name _____ Co. Dist. #

Survey of Undocumented Alien Students

Authority for Data Collection: September 4, 1980 Order of United States Supreme Court.

Planned Use of the Data: Determine effect of enrollment of undocumented alien students.

Instructions: This form should be completed by every district in the state. If you do not have any undocumented alien students, write N. A. across the front of form and sign. If you are asking for a stay of the court order, the completed form is due in TEA by September 22. Otherwise, it is due October 1, 1980. If further clarification is needed, contact Thomas C. Patton at (512) 475-4747.

1. Number of Undocumented Alien Students Enrolled

Grades	Number of undocumented alien students enrolled as of close of school day September 19, 1980.
K	
1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
TOTAL	

2. Does this district intend to petition for a stay of the Court Order based upon the above information? ☐ yes ☐ no

The Texas Education Agency will request additional information from districts petitioning for a stay of the Court Order.

Typed Name of Superintendent	Telephone	Date	

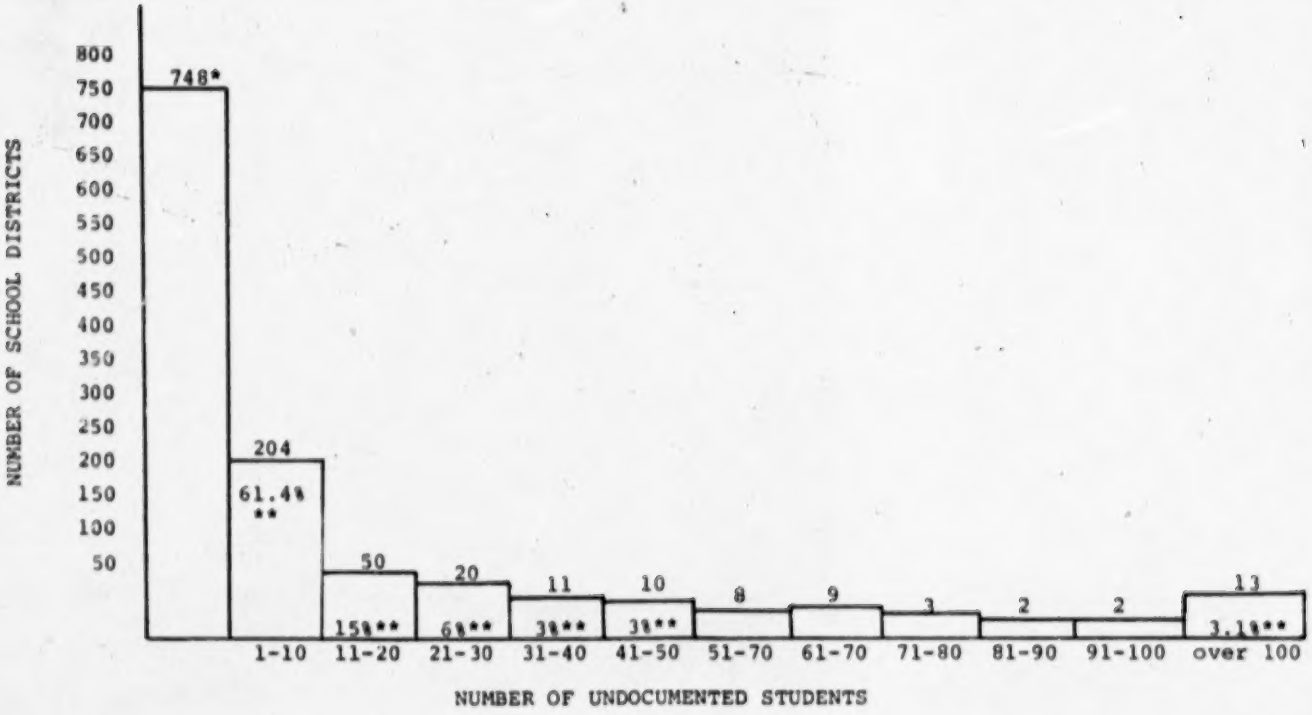
Signature of Superintendent

Return to: Texas Education Agency
Division of State Funding
201 East 11th Street
Austin, Texas 78701

FIN-126

TABLE 1

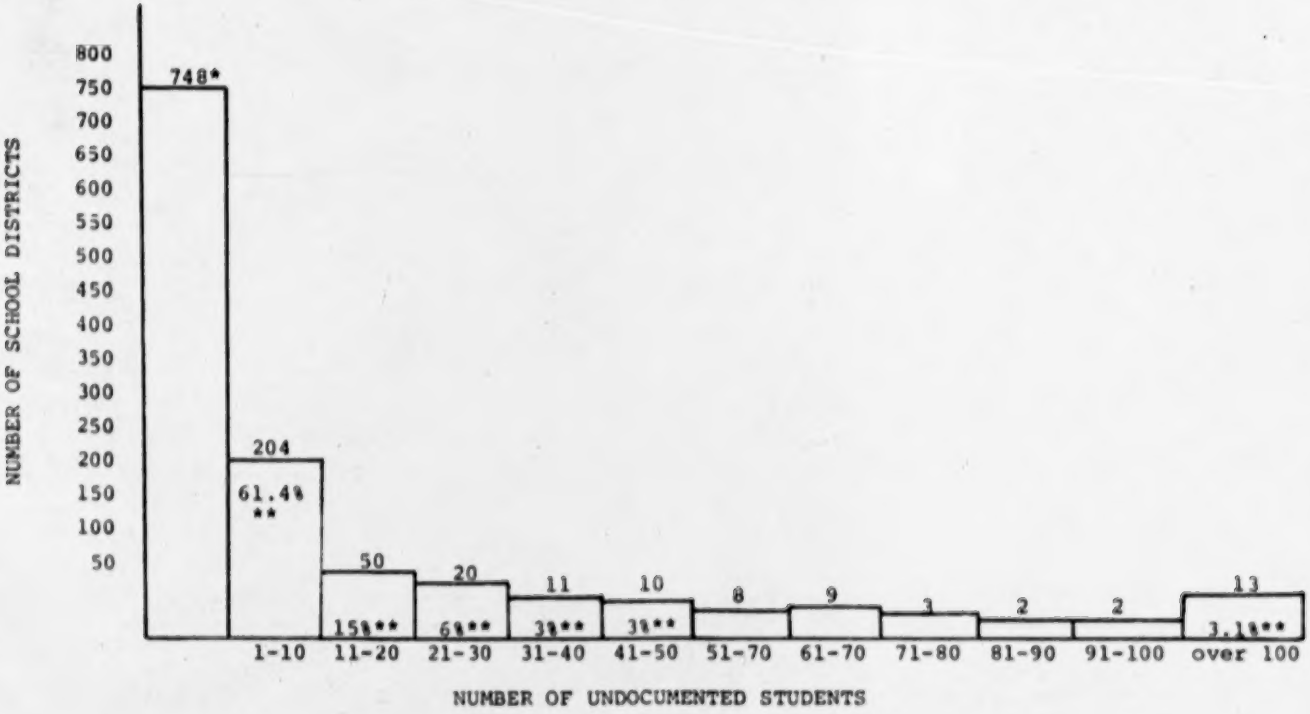
DISTRIBUTION OF UNDOCUMENTED STUDENTS
BY COUNTS WITHIN SCHOOL DISTRICTS



*Not reporting any undocumented students to TEA.
**Computed as a percentage of the 332 school districts reporting undocumented counts to TEA.
Source: Reports submitted by school districts to Texas Education Agency, Oct. 1980.

TABLE 1

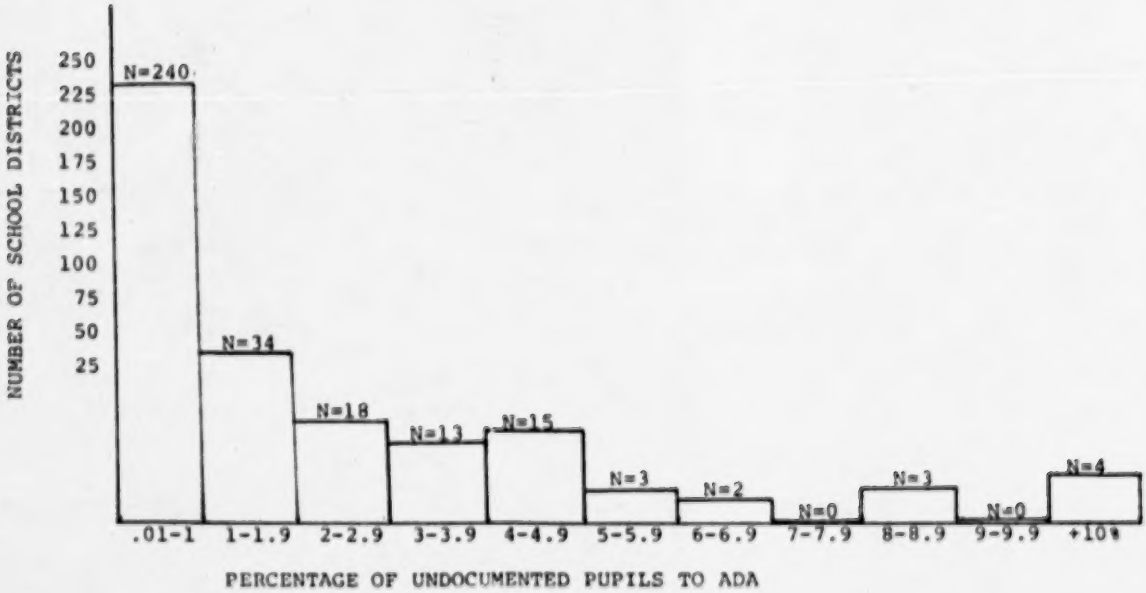
DISTRIBUTION OF UNDOCUMENTED STUDENTS
BY COUNTS WITHIN SCHOOL DISTRICTS



*Not reporting any undocumented students to TEA.
**Computed as a percentage of the 332 school districts reporting undocumented counts to TEA.
Source: Reports submitted by school districts to Texas Education Agency, Oct. 1980.

TABLE 2

STATEWIDE DISTRIBUTION OF UNDOCUMENTED PUPILS
BY PERCENTAGE OF UNDOCUMENTED PUPILS TO DISTRICT'S ADA



Statewide Ave. 1.2%
Total N = 332
*Computed as a percentage of the 331 school districts reporting undocumented student counts.
Source: Reports submitted by school districts to Texas Education Agency, Oct. 1980.

TABLE 3

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS

COUNTY DISTRICT NUMBER	SCHOOL DISTRICT	ADA	UNDOCUMENTED PUPILS	UNDOCUMENTED PUPILS AS PERCENTAGE OF ADA
101-912	HOUSTON	173,861	2,506	1.4
057-905	DALLAS	144,887	810	.7
068-901	ECTOR COUNTY	20,996	684	3.3
220-905	FORT WORTH	57,618	545	.9
071-902	EL PASO	53,697	486	.9
015-907	SAN ANTONIO	55,478	394	.7
108-908	MISSION	6,390	207	3.2
101-917	PASADENA	32,244	186	.6
031-901	BROWNSVILLE	23,314	182	.8
108-911	SHARYLAND	1,511	170	11.3
101-911	GOOSECREEK	13,887	158	1.1
101-902	ALDINE	29,489	123	.4
101-920	SPRING BRANCH	31,081	122	.4
015-905	EDGEWOOD	16,239	92	.6
071-905	YSLETA	40,501	91	.2
123-907	PORT ARTHUR	10,697	82	.8
227-901	AUSTIN	51,113	80	.2
108-903	EDCOUCH-ELSA	2,995	78	2.6
214-901	RIO GRANDE	4,010	75	1.9
243-905	WICHITA FALLS	12,997	69	.5
108-906	McALLEN	15,029	67	.4
083-903	SEMINOLE	1,837	67	3.7
031-909	POINT ISABEL	1,513	67	4.4
079-901	LAMAR	7,790	66	.9

TABLE 3

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS

COUNTY DISTRICT NUMBER	SCHOOL DISTRICT	ADA	UNDOCUMENTED PUPILS	UNDOCUMENTED PUPILS AS PERCENTAGE OF ADA
178-904	CORPUS CHRISTI	34,377	63	.2
251-901	DENVER CITY	1,272	62	4.9
253-901	ZAPATA	1,480	60	4.1
031-911	RIO HONDO	1,239	60	4.8
101-910	GABNA PARK	10,441	57	.6
108-902	DONNA	4,659	56	1.2
015-904	HARLANDALE	14,726	55	.4
179-901	PERRYTON	1,609	53	3.3
233-901	SAN FELIPE-DEL RIO	8,327	53	.6
108-909	PHARR	12,060	52	.4
095-905	PLAINVIEW	5,501	51	.9
249-905	DECATUR	1,251	50	.4

TABLE 4

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS AND WITH DECLINING ADA

DISTRICT	UNDOCUMENTED STUDENT ENROLLMENT	1975-76 ADA	1978-79 ADA	1979-80 ADA	ADA DECLINE 1975-76/1979-80	ADA DECLINE 1978-79/1979-80
HOUSTON	2,506	185,844	177,378	173,861	- 11,983	- 3,517
DALLAS	810	126,777	118,775	114,887	- 11,890	- 3,888
FORT WORTH	345	66,520	61,414	57,618	- 8,902	- 3,796
EL PASO	486	55,406	53,796	53,697	- 2,609	- 99
SAN ANTONIO	394	59,340	56,241	55,470	- 3,870	- 771
PASADENA	186	33,265	32,542	32,244	- 1,021	- 298
SPRING BRANCH	120	36,	32,713	31,081	- 5,662	- 1,663
EDGEWOOD	92	18,251	17,134	-16,239	- 2,012	- 895
PORT ARTHUR	82	11,991	10,829	10,697	- 1,294	- 132
AUSTIN	80	52,980	52,936	51,113	- 1,867	- 1,823
WICHITA FALLS	69	14,412	13,389	12,997	- 1,415	- 392
SEMINOLE	67	1,903	1,884	1,837	- 66	- 47
CORPUS CHRISTI	63	37,277	34,958	34,377	- 2,900	- 581
DENVER CITY	62	1,356	1,357	1,272	- 84	- 85
HARLANDALE	55	16,625	15,290	14,726	- 1,899	- 564

TABLE 4

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS AND WITH DECLINING ADA

DISTRICT	UNDOCUMENTED STUDENT ENROLLMENT	1975-76 ADA	1978-79 ADA	1979-80 ADA	ADA DECLINE 1975-76/1979-80	ADA DECLINE 1978-79/1979-80
PERRYTON	53	1,841	1,663	1,690	- 232	- 54
PLAINVIEW	51	5,800	5,598	5,501	- 299	- 97
TOTALS	5,721				58,005	18,702

TABLE 5

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS WITH LOW
TO MODERATE INCREASES IN ADA

DISTRICT	UNDOCUMENTED STUDENT ENROLLMENT	1975-76 ADA	1978-79 ADA	1979-80 ADA	ADA CHANGE 1975-76/1979-80	ADA CHANGE 1978-79/1979-80
ECTOR COUNTY	684	21,068	20,792	20,996	-72	204
MISSION	207	6,014	6,417	6,390	376	-27
BROWNSVILLE	182	20,548	22,388	23,614	3,066	1,226
SHARYLAND	170	1,235	1,463	1,511	276	48
GOOSE CREEK	158	13,299	13,614	13,887	588	226
ALDINE	123	28,581	28,833	29,489	908	656
YSLETA	91	37,686	40,073	40,501	2,815	428
BRYAN	78	8,293	8,412	8,644	351	232
EDCOUCH-ELSA	78	2,822	2,932	2,995	173	63
RIO GRANDE	75	3,376	3,838	4,010	634	172
McALLEN	67	13,206	14,838	15,029	1,823	191
POINT ISABEL	67	1,583	1,503	1,513	-80	10
LAMAR	66	7,436	7,769	7,790	354	21
RIO HONDO	60	1,205	1,268	1,239	29	-29
ZAPATA	60	1,325	1,427	1,480	155	53
GALENA PARK	57	9,957	10,304	10,441	484	137

TABLE 5

SCHOOL DISTRICTS WITH 50 OR MORE
UNDOCUMENTED PUPILS WITH LOW
TO MODERATE INCREASES IN ADA

DISTRICT	UNDOCUMENTED STUDENT ENROLLMENT	1975-76 ADA	1978-79 ADA	1979-80 ADA	ADA CHANGE 1975-76/1979-80	ADA CHANGE 1978-79/1979-80
DONNA	56	4,211	4,524	4,659	448	135
SAN FELIPE-DEL RIO	53	7,860	8,439	8,327	467	-112
PHARR-SAN JUAN-ALAMO	52	10,257	11,969	12,060	1,803	91
DECATUR	50	1,241	1,274	1,251	-23	10
TOTAL	2,434					

TABLE 6

SCHOOL DISTRICTS REPORTING +50 UNDOCUMENTED PUPILS
FIVE YEAR ATTENDANCE HISTORIES

Part 1

SCHOOL DISTRICT	UNDOC. STUDENTS	DAILY AVERAGE ATTENDANCE 1975-76	1976-77	1977-78	1978-79	1979-80
HOUSTON	2,506	185,844	183,735	180,868	177,378	173,861
DALLAS	810	126,777	121,868	119,682	118,775	114,887
ECTOR COUNTY	684	21,068	21,095	21,158	20,792	20,996
FORT WORTH	545	66,520	64,800	62,369	61,414	57,618
EL PASO	486	55,406	55,117	54,596	53,796	53,697
SAN ANTONIO	394	59,340	57,895	57,162	56,241	55,470
MISSION	207	6,014	6,138	6,331	6,417	6,390
PASADENA	186	33,265	32,790	32,577	32,542	32,244
BROWNSVILLE	182	20,548	21,075	21,597	22,388	23,614
SHARYLAND	170	1,235	1,302	1,369	1,463	1,511
GOOSE CREEK	158	13,299	13,465	13,691	13,614	13,887
ALDINE	123	28,581	28,897	28,724	28,833	29,489
SPRING BRANCH	120	36,743	25,596	34,279	32,713	31,081
EDGEWOOD	92	18,251	17,526	17,775	17,134	16,239
YSLETA	91	37,686	38,864	39,374	40,073	40,501
PORT ARTHUR	82	11,991	11,588	11,237	10,829	10,697
AUSTIN	80	52,980	52,823	53,109	52,936	51,113
BRYAN	78	8,293	8,412	8,341	8,412	8,644
EDCOUCH ELSA	78	2,815	2,835	2,908	2,932	2,995
RIO GRANDE CITY	75	3,376	3,532	3,722	3,838	4,010
WICHITA FALLS	69	14,412	14,163	13,798	13,389	12,997
McALLEN	67	13,206	13,465	13,754	14,838	15,029
SEMINOLE	67	1,903	1,846	1,899	1,884	1,837
POINT ISABEL	67	1,568	1,549	1,533	1,503	1,513

TABLE 6

SCHOOL DISTRICTS REPORTING +50 UNDOCUMENTED PUPILS
FIVE YEAR ATTENDANCE HISTORIES

Part 1, con't

SCHOOL DISTRICT	UNDOC. STUDENTS	DAILY AVERAGE ATTENDANCE 1975-76	1976-77	1977-78	1978-79	1979-80
LAMAR	66	7,436	7,609	7,562	7,769	7,790
CORPUS CHRISTI	63	37,277	36,152	35,563	34,958	34,377
DENVER CITY	62	1,356	1,338	1,337	1,357	1,272
RIO HONDO	60	1,215	1,217	1,284	1,268	1,239
ZAPATA	60	1,266	1,355	1,401	1,427	1,480
GALENA PARK	57	9,957	9,942	10,049	10,304	10,441
DONNA	56	4,211	4,253	4,430	4,524	4,659
HARLANDALE	55	16,625	16,372	15,743	15,290	14,726
PERRYTON	53	1,841	1,754	1,702	1,663	1,609
SAN FELIPE-DEL RIO	53	7,860	8,200	8,355	8,439	8,327
PHARR-SAN JUAN-ALAMO	52	10,257	10,717	11,109	11,969	12,060
PLAINVIEW	51	5,800	5,722	5,718	5,598	5,501
DECATUR	50	1,241	1,310	1,281	1,274	1,251

Part 2

SCHOOL DISTRICT	UNDOC. STUDENTS	CHANGE IN ADA 1975-76/ 1976-77	1976-77/ 1977-78	1977-78/ 1978-79	1978-79/ 1979-80	1975-76/ 1979-80
HOUSTON	2,506	- 2,109	- 2,867	- 3,490	- 3,517	11,983
DALLAS	810	- 4,909	- 2,186	- 907	- 3,888	-11,890
ECTOR COUNTY	684	27	63	- 366	204	- 72
FORT WORTH	545	- 1,720	- 2,431	- 955	- 3,796	- 8,902
EL PASO	486	- 289	- 521	- 800	- 99	- 1,709
SAN ANTONIO	394	- 1,445	- 733	- 921	- 771	- 3,870
MISSION	207	124	193	86	- 27	376
PASADENA	186	- 475	- 213	- 35	- 298	- 1,021

TABLE 6

SCHOOL DISTRICTS REPORTING +50 UNDOCUMENTED PUPILS
FIVE YEAR ATTENDANCE HISTORIES

Part 2, con't

SCHOOL DISTRICT	UNDOC. STUDENTS	CHANGE IN ADA 1975-76/ 1976-77	1976-77/ 1977-78	1977-78/ 1978-79	1978-79/ 1979-80	1975-76/ 1979-80
BROWNSVILLE	182	527	522	791	1,226	3,066
SHARYLAND	170	67	67	94	48	276
GOOSE CREEK	158	166	226	- 77	273	588
ALDINE	123	316	- 173	109	656	908
SPRING BRANCH	120	- 1,147	- 1,317	- 1,566	- 1,632	- 5,662
EDGEWOOD	92	- 725	249	- 641	- 895	- 2,012
YSLETA	91	1,178	510	699	428	2,815
PORT ARTHUR	82	- 403	- 351	- 408	- 132	- 1,294
AUSTIN	80	- 157	286	- 173	- 1,823	- 1,867
BRYAN	78	119	- 71	71	232	351
EDCOUCH ELSA	78	20	73	24	63	180
RIO GRANDE CITY	75	156	190	116	172	634
WICHITA FALLS	69	- 249	- 365	- 409	- 392	- 1,415
McALLEN	67	259	289	1,084	191	1,823
SEMINOLE	67	- 57	53	- 15	47	- 66
POINT ISABEL	67	- 19	- 16	- 30	10	- 55
LAMAR	66	173	- 47	207	21	354
CORPUS CHRISTI	63	- 1,125	- 589	- 605	- 581	- 2,900
DENVER CITY	62	- 18	- 1	20	- 85	- 84
RIO HONDO	60	2	67	- 16	- 29	24
ZAPATA	60	89	46	26	53	214
GALENA PARK	57	- 15	107	255	137	484
DONNA	56	42	177	94	135	488
HARLANDALE	55	253	- 629	- 453	- 564	- 1,899

TABLE 6

SCHOOL DISTRICTS REPORTING +50 UNDOCUMENTED PUPILS
FIVE YEAR ATTENDANCE HISTORIES

Part 2, con't

SCHOOL DISTRICT	UNDOC. STUDENTS	CHANGE IN ADA 1975-76/ 1976-77	1976-77/ 1977-78	1977-78/ 1978-79	1978-79/ 1979-80	1975-76/ 1979-80
PERRYTON	53	- 87	- 52	- 39	- 54	- 232
SAN FELIPE-DEL RIO	53	340	155	84	- 112	467
PHARR-SAN JUAN-ALAMO	52	460	392	860	91	1,803
PLAINVIEW	51	- 78	- 4	- 120	- 97	- 299
DECATUR	50	69	- 29	- 7	- 23	10

TABLE 7

CHANGES IN UNDOCUMENTED STUDENT TOTALS
FOR SELECTED SCHOOL SYSTEMS
OCTOBER 1980 TO FEBRUARY 1981

DISTRICT	1979-80 ADA	OCTOBER 1980 UNDOCUMENTED STUDENT COUNT	FEBRUARY 1981 UNDOCUMENTED STUDENT COUNT	NET CHANGE	PERCENT OCT. UNDOCUMENTED ADA	PERCENT FEB. UNDOCUMENTED ADA	NET CHANGE
HOUSTON	173,861	2,506	3,595	1,089	1.4	2.1	.6
BROWNSVILLE	23,614	182	750	568	.8	3.2	2.4
DALLAS	114,877	810	1,215	405	.7	1.1	.4
FORT WORTH	57,618	545	755	210	.9	1.3	.4
YSLETA	40,501	91	283	192	.2	.7	.5
PASADENA	32,244	186	260	74	.6	.8	.2
HARLINGEN	10,881	15	60	45	.1	.6	.5
RIO GRANDE CITY	4,010	75	118	43	1.9	2.9	1.0
WACO	12,936	44	83	39	.3	.6	.3
AUSTIN	51,113	80	102	22	.15	.19	.04
CORPUS CHRISTI	34,377	63	81	18	.18	.23	.05
SAN ANGELO	12,822	33	50	17	.3	.4	.1
PORT ARTHUR	10,697	82	92	10	.8	.9	.1
AMARILLO	29,995	6	16	10	.02	.05	.03
IRVING	19,816	9	18	9	.05	.09	.04
NACOGDOCHES	4,380	18	25	7	.4	.6	.2

TABLE 7

CHANGES IN UNDOCUMENTED STUDENT TOTALS
FOR SELECTED SCHOOL SYSTEMS
OCTOBER 1980 TO FEBRUARY 1981

DISTRICT	1979-80 ADA	OCTOBER 1980 UNDOCUMENTED STUDENT COUNT	FEBRUARY 1981 UNDOCUMENTED STUDENT COUNT	NET CHANGE	PERCENT OCT. UNDOCUMENTED ADA	PERCENT FEB. UNDOCUMENTED ADA	NET CHANGE
SAN ANTONIO	55,478	394	400	6	.71	.72	.01
CARROLLTON-FARMERS BRANCH	11,284	6	11	5	.1	.1	0
TEXARKANA	5,542	0	2	2	0	.03	.03
EDEN	299	1	3	2	.3	1.0	.7
JUNCTION	756	13	14	1	1.7	1.9	.2
PLEASANT GROVE	1,246	2	2	0	.2	.2	0
MINERAL WELLS	3,456	8	8	0	.2	.2	0
EL PASO	53,697	486	486	0	.9	.9	0
ROMA	2,843	8	8	0	.3	.3	0
SAN DIEGO	1,419	2	2	0	.1	.1	0
TATUM	790	10	10	0	1.3	1.3	0
BEAUMONT	9,446	24	24	0	.3	.3	0
LUBBOCK	27,564	14	14	0	.1	.1	0
GATESVILLE	1,759	1	1	0	.1	.1	0
EVANT	215	6	6	0	2.8	2.8	0
RISING STAR	266	1	1	0	.4	.4	0

TABLE 7

CHANGES IN UNDOCUMENTED STUDENT TOTALS
FOR SELECTED SCHOOL SYSTEMS
OCTOBER 1980 TO FEBRUARY 1981

DISTRICT	1979-80 ADA	OCTOBER 1980 UNDOCUMENTED STUDENT COUNT	FEBRUARY 1981 UNDOCUMENTED STUDENT COUNT	NET CHANGE	PERCENT OCT. UNDOCUMENTED ADA	PERCENT FEB. UNDOCUMENTED ADA	NET CHANGE
BANDERA	935	2	2	0	.2	.2	0
ABILENE	15,717	15	15	0	.1	.1	0
FORESTBURG	95	2	1	-1	2.1	1.1	-1
JOAQUIN	549	3	2	-1	.5	.4	- .1
BRIDGE CITY	2,645	1	0	-1	.03	0	- .03
MIDLAND	13,533	7	6	-1	.05	.04	- .01
MARATHON	140	1	0	-1	.7	0	- .7
CARLISLE	345	1	0	-1	.3	0	- .3
SANTO	298	12	10	-2	.4	.3	- .1
KERRVILLE	3,107	2	0	-2	.1	0	- .1
EASTLAND	757	3	0	-3	.4	0	- .4
CYPRESS-FAIRBANKS	18,678	37	34	-3	.19	.18	.01
MEDINA	203	8	5	-3	3.9	2.5	-1.4
ALPINE	1,135	3	0	-3	.3	0	- .3
EDGEWOOD	16,239	92	85	-7	.6	.5	- .1